

AMENDED IN ASSEMBLY JUNE 15, 2010

AMENDED IN ASSEMBLY JUNE 10, 2010

AMENDED IN ASSEMBLY JANUARY 11, 2010

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE APRIL 13, 2009

## SENATE BILL

**No. 435**

**Introduced by Senator Pavley  
(Coauthor: Senator Lowenthal)**

February 26, 2009

---

An act to amend ~~Sections 27156 and~~ *Section* 42001.14 of, and to add Section 27202.1 to, the Vehicle Code, relating to vehicles.

### LEGISLATIVE COUNSEL'S DIGEST

SB 435, as amended, Pavley. Vehicles: pollution control devices.

~~(1) Existing law prohibits a person from operating or leaving standing upon a highway, a motor vehicle, unless the vehicle is equipped with the required pollution control device that is correctly installed and in operating conditions. Existing law prohibits a person from disconnecting, modifying, or altering those required pollution control devices. Existing law prohibits a person from installing, selling, offering for sale, or advertising a device, apparatus, or mechanism intended for use with, or as a part of, the required pollution control device or system that alters or modifies the original device or performance of that device or system. A violation of these provisions is an infraction punishable by a specified fine.~~

~~This bill would revise the fine to be not less than \$300.~~

~~(2)~~

(1) Existing federal regulations require a motorcycle manufactured on and after January 1, 1983, and exhaust emission systems for those motorcycles, to meet specified noise emissions standards and require that a label be affixed onto the motorcycle or exhaust emission system indicating that the motorcycle or exhaust emission system meets the noise emissions standards.

This bill would make it a crime for a person to park, use, or operate a motorcycle, registered in the state *that is manufactured on and after January 1, 2000*, that does not have the above label, and *would make a violation of this provision is punishable by a specified fine of not less than \$300*, thereby imposing a state mandated local program by creating a new crime. *The bill would require the person to whom a notice to appear is issued, or against whom a complaint is filed, for the above violation, to provide proof of correction.*

(3)

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 27156 of the Vehicle Code is amended~~  
2     ~~to read:~~  
3     ~~27156. (a) A person shall not operate or leave standing upon~~  
4     ~~a highway a motor vehicle that is a gross polluter, as defined in~~  
5     ~~Section 39032.5 of the Health and Safety Code.~~  
6     ~~(b) A person shall not operate or leave standing upon a highway~~  
7     ~~a motor vehicle that is required to be equipped with a motor vehicle~~  
8     ~~pollution control device under Part 5 (commencing with Section~~  
9     ~~43000) of Division 26 of the Health and Safety Code or any other~~  
10    ~~certified motor vehicle pollution control device required by any~~  
11    ~~other state law or any rule or regulation adopted pursuant to that~~  
12    ~~law, or required to be equipped with a motor vehicle pollution~~  
13    ~~control device pursuant to the National Emission Standards Act~~  
14    ~~(42 U.S.C. Secs. 7521 to 7550, inclusive) and the standards and~~  
15    ~~regulations adopted pursuant to that federal act, unless the motor~~

1 ~~vehicle is equipped with the required motor vehicle pollution~~  
2 ~~control device that is correctly installed and in operating condition.~~

3 ~~A person shall not disconnect, modify, or alter any required device.~~

4 ~~(e) A person shall not install, sell, offer for sale, or advertise~~  
5 ~~any device, apparatus, or mechanism intended for use with, or as~~  
6 ~~a part of, a required motor vehicle pollution control device or~~  
7 ~~system that alters or modifies the original design or performance~~  
8 ~~of the motor vehicle pollution control device or system.~~

9 ~~(d) If the court finds that a person has willfully violated this~~  
10 ~~section, the court shall impose the maximum fine that may be~~  
11 ~~imposed in the case, and no part of the fine may be suspended.~~

12 ~~(e) “Willfully,” as used in this section, has the same meaning~~  
13 ~~as the meaning of that word prescribed in Section 7 of the Penal~~  
14 ~~Code.~~

15 ~~(f) A person shall not operate a vehicle after notice by a traffic~~  
16 ~~officer that the vehicle is not equipped with the required certified~~  
17 ~~motor vehicle pollution control device correctly installed in~~  
18 ~~operating condition, except as may be necessary to return the~~  
19 ~~vehicle to the residence or place of business of the owner or driver~~  
20 ~~or to a garage, until the vehicle has been properly equipped with~~  
21 ~~such a device.~~

22 ~~(g) The notice to appear issued or complaint filed for a violation~~  
23 ~~of this section shall require that the person to whom the notice to~~  
24 ~~appear is issued, or against whom the complaint is filed, produce~~  
25 ~~proof of correction pursuant to Section 40150 or proof of~~  
26 ~~exemption pursuant to Section 4000.1 or 4000.2.~~

27 ~~(h) This section shall not apply to an alteration, modification,~~  
28 ~~or modifying device, apparatus, or mechanism found by resolution~~  
29 ~~of the State Air Resources Board to do either of the following:~~

30 ~~(1) Not to reduce the effectiveness of a required motor vehicle~~  
31 ~~pollution control device.~~

32 ~~(2) To result in emissions from the modified or altered vehicle~~  
33 ~~that are at levels that comply with existing state or federal standards~~  
34 ~~for that model-year of the vehicle being modified or converted.~~

35 ~~(i) Aftermarket and performance parts with valid State Air~~  
36 ~~Resources Board Executive Orders may be sold and installed~~  
37 ~~concurrent with a motorcycle’s transfer to an ultimate purchaser.~~

38 ~~(j) This section applies to motor vehicles of the United States~~  
39 ~~or its agencies, to the extent authorized by federal law.~~

1 ~~(k) A violation of subdivision (b) or (c) shall be punishable by~~  
2 ~~a fine of not more than three hundred dollars (\$300), and no part~~  
3 ~~of the fine imposed may be suspended.~~

4 ~~SEC. 2.~~

5 *SECTION 1.* Section 27202.1 is added to the Vehicle Code, to  
6 read:

7 27202.1. (a) Notwithstanding other law, a person shall not  
8 park, use, or operate a motorcycle, registered in the State of  
9 California, and manufactured on and after January 1, ~~1983~~ 2000,  
10 that does not bear the required applicable federal Environmental  
11 Protection Agency exhaust system label pursuant to Subparts D  
12 (commencing with Section 205.150) and E (commencing with  
13 Section 205.164) of Part 205 of Title 40 of the Code of Federal  
14 Regulations. *A violation of this section shall be considered a*  
15 *mechanical violation and a peace officer shall not stop a*  
16 *motorcycle solely on a suspicion of a violation of this section. A*  
17 *peace officer shall cite a violation of this section as a secondary*  
18 *infraction.*

19 (b) A violation of this section is punishable ~~by a fine of not~~  
20 ~~more than three hundred dollars (\$300), and no part of the fine~~  
21 ~~imposed may be suspended.~~ *pursuant to Section 42001.14.*

22 (c) *The notice to appear issued or complaint filed for a violation*  
23 *of this section shall require that the person to whom the notice to*  
24 *appear is issued, or against whom the complaint is filed, produce*  
25 *proof of correction pursuant to Section 40150.*

26 ~~SEC. 3.~~

27 *SEC. 2.* Section 42001.14 of the Vehicle Code is amended to  
28 read:

29 42001.14. (a) A person convicted of an infraction for the  
30 offense of disconnecting, modifying, or altering a required pollution  
31 control device in violation of Section 27156 ~~shall be punished~~  
32 ~~pursuant to subdivision (k) of Section 27156.~~ *or of a violation of*  
33 *Section 27202.1 shall be punished as follows:*

34 (1) *For a first conviction, by a fine of not less than fifty dollars*  
35 *(\$50), nor more than one hundred dollars (\$100).*

36 (2) *For a second or subsequent conviction, by a fine of not less*  
37 *than one hundred dollars, nor more than two hundred fifty dollars*  
38 *(\$250).*

39 (b) (1) The fines collected under subdivision (a) shall be  
40 allocated pursuant to subdivision (d) of Section 42001.2.

1 (2) The amounts allocated pursuant to paragraph (1) to the air  
2 pollution control district or air quality management district in  
3 which the infraction occurred shall first be allocated to the State  
4 Air Resources Board and the Bureau of Automotive Repair to pay  
5 the costs of the state board and the bureau under Article 8  
6 (commencing with Section 44080) of Chapter 5 of Part 5 of  
7 Division 26 of the Health and Safety Code.

8 (3) The funds collected under subdivision (a) which are not  
9 required for purposes of paragraph (2) shall be used for the  
10 enforcement of Section 27156 or for the implementation of Article  
11 8 (commencing with Section 44080) of Chapter 5 of Part 5 of  
12 Division 26 of the Health and Safety Code.

13 ~~SEC. 4.~~

14 *SEC. 3.* No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section 17556 of  
20 the Government Code, or changes the definition of a crime within  
21 the meaning of Section 6 of Article XIII B of the California  
22 Constitution.